

**Affordable Housing Restriction****DECLARATION OF RESTRICTIVE COVENANT REGARDING AFFORDABLE  
HOUSING REQUIREMENTS FOR DEVELOPMENT LOCATED AT:**

**Southeast Corner of Jackie Robinson Street and Tannehill Lane,  
Austin, Travis County, Texas 78721**

This Restrictive Covenant regarding Affordable Housing Requirements (the "**Restrictive Covenant**"), is executed effective as of this April 13, 2018, by the Austin Independent School District, ("Declarant") and is as follows:

1. RECITALS

- A. Declarant owns that certain real property ("**Property**") described on attached Exhibit A.
- B. Definitions:

**Owners.** The term "Owner" means, individually, and the term "Owners" means, collectively, Declarant and all future owners of the fee interest or any portion of the Property (whether such fee interest is obtained through a purchase from Declarant or through a purchase at a foreclosure sale or trustee's sale or through a deed in lieu of foreclosure) and their successors and assigns.

**Affordable Housing Requirements.** The Term "**Affordable Housing Requirements**" means restricting the Property as follows:

- (a) No less than 25% of the total number of housing units constructed must be occupied by a qualified household, defined as follows:

- (1) A rental unit is primarily occupied by a rental household (the "rental units") whose adjusted gross income for the year immediately preceding the date of occupancy of the dwelling housing unit is at or below 120% of the then current median family income for the Austin-Round Rock metropolitan statistical area as determined annually by the United States Department of Housing and Urban Development ("MFI") and is verified in writing as acceptable by the Neighborhood Housing and Community Development Office of the City of Austin (the "City");

- (2) An ownership unit is primarily occupied by a homeowner household (the "ownership units") whose adjusted gross income for the year immediately preceding the date of occupancy of the dwelling housing unit which is at or below 120% of the then current MFI and is verified in writing as acceptable by the City; and

- (b) A unit is affordable for purchase if the sales price does not exceed three times the annual income for a household at 120% MFI, adjusted for unit size where 1 bedroom equals 1 person. The sales price can be up to 3.5 times the annual income for a household at 120% MFI if a household member has completed a City-approved home buyer counseling or education class. A unit is affordable for rental if the monthly rent does not exceed 30 percent of the average gross monthly income for a household at 120% MFI, adjusted for unit size where 1 bedroom equals 1 person.

Affordable Units. The term "**Affordable Units**" refers to ownership units and rental units as defined by the Affordable Housing Requirements.

- C. Declarant has agreed to impose upon the Property these covenants and conditions for the benefit of the Property.

NOW, THEREFORE, Declarant declares that the Property is subject to the following covenants, conditions and restrictions, which run with the Property and bind all parties having right, title, or interest in or to such portion of the Property or any part, their respective heirs, successors, and assigns, and which inure to the benefit of each Owner. Each contract, deed or conveyance of any kind conveying all or a portion of the Property will conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions and restrictions, regardless of whether or not they are set out in full or by reference in said contract, deed or conveyance.

#### **SPECIFIC AGREEMENTS AND RESTRICTIONS:**

1. Recitals Incorporated. The above Recitals and all terms defined therein are incorporated into this Restrictive Covenant for all purposes.
2. Compliance with Affordable Housing Requirements. Until such time as the Release (hereafter defined) is filed in the real property records of Travis County, Texas, all occupancy of residential improvements to or modifications to residential improvements on the Property shall be in full compliance with the Affordable Housing Requirements.

IT IS THE EXPRESS INTENT OF DECLARANT THAT ONLY CERTAIN HOUSING UNITS CONSTRUCTED ON THE PROPERTY BE ENCUMBERED BY THE AFFORDABLE HOUSING REQUIREMENTS.

At such time as the Owner the Property designates an Affordable Unit, such housing unit shall be encumbered (a "designated unit") by a restrictive covenant, recorded in the real property records of Travis County, Texas, to remain so encumbered for the period of time set forth in Section 5.B of this Restrictive Covenant.

The City may request a partial release of units not to be designated as affordable, to be granted at the reasonable discretion of the Declarant to allow for sale of housing units not to be designated as affordable. It is the intent of this Restrictive Covenant that the Affordable Units are constructed in a proportionate ratio with the market rate units on the Property. The City may request a partial release of portions of the Property that do not contain housing units, to be granted by the Declarant at the time a site plan for the property is approved.

At such time as the Affordable Housing Requirements have been met, and replacement restrictive covenants recorded encumbering all Affordable Units, the Declarant shall execute a release ("Release") of this Restrictive Covenant for property other than the Designated Units.

3. Breach Does Not Permit Termination. Notwithstanding anything to the contrary contained herein, no breach of this Restrictive Covenant entitles the Owners to cancel, rescind or otherwise terminate this Restrictive Covenant, but such limitations do not affect in any manner any other rights or remedies which the Owners may have hereunder by reason of any breach of this Restrictive Covenant.
4. Excusable Delays. Whenever performance is required of the Owners, the Owners shall use all due diligence to perform and take all reasonable and necessary measures in good faith to perform within a reasonable time; provided, however, that if completion of

performance is delayed at any time by reasons of acts of God, war, civil commotion, riots, strikes, picketing, or other labor disputes, unavailability of labor or material, damage to work in progress by reason of fire or other casualty, or any other cause beyond the reasonable control of the Owner (financial inability, imprudent management or negligence excepted), then the time for performance as herein specified will be extended by the amount of delay actually so caused.

5. General Provisions.

- A. Inurement. This Restrictive Covenant and the restrictions created hereby inure to the benefit of and bind Owners, and their successors and assigns. When an Owner conveys all or any portion of the Property, that former Owner will thereupon be released and discharged from any and all further obligations, if any, under this Restrictive Covenant that it had in connection with the Property conveyed by it from and after the date of recording of such conveyance, but no such sale releases that former Owner from any liabilities, if any, actual or contingent, existing as of the time of such conveyance.
- B. Duration. Unless this Restrictive Covenant is modified, amended, or terminated in accordance with Paragraph 5(K), this Restrictive Covenant remains in effect for: (a) forty (40) years from the date the unit is leased to an eligible household for units occupied primarily by a rental household, so long as the unit remains in compliance; (b) for ninety-nine (99) years from the date a unit governed by a condominium declaration or held in a community land trust is either sold or leased to an eligible household for occupation primarily by a ownership household; or (c) forty (40) years from the date a unit sold in fee simple and not governed by a condominium declaration is sold to an eligible household for occupation primarily by an ownership household.
- C. Non-Merger. This Restrictive Covenant will not be subject to the doctrine of merger, even though the underlying fee ownership of the Property, or any parts thereof, is vested in one party or entity.
- D. Severability. The provisions of this Restrictive Covenant must be deemed to be independent and severable, and the invalidity or partial invalidity of any provision or portion hereof does not affect the validity or enforceability of any other provision.
- E. Entire Agreement. This Restrictive Covenant, and the exhibits attached hereto contain all the representations and the entire agreement between the parties to this Restrictive Covenant with respect to the subject matter hereof. Any prior correspondence, memoranda or agreements are superseded in total by this Restrictive Covenant and the exhibits attached hereto. The provisions of this Restrictive Covenant will be construed as a whole according to their common meaning and not strictly for or against any Owner.
- F. Captions. The captions preceding the text of each section and subsection hereof are included only for convenience of reference and will be disregarded in the construction and interpretation of this Restrictive Covenant.
- G. Governing Law; Place of Performance. This Restrictive Covenant and all rights and obligations created hereby will be governed by the laws of the State of Texas. This Restrictive Covenant is performable only in the county in Texas where the Property is located.

- H. Notices. Any Notice to the Owners or the City must be in writing and given by delivering the same to such party in person, by expedited, private carrier services (such as Federal Express) or by sending the same by certified mail, return receipt requested, with postage prepaid to the intended recipient's last known mailing address. All notices under this Restrictive Covenant will be deemed given, received, made or communicated on the date personal delivery is effected or, if mailed, on the delivery date or attempted delivery date shown on the return receipt.
- I. Negation of Partnership. None of the terms or provisions of this Restrictive Covenant will be deemed to create a partnership between or among the Declarant, any Owner, or the City of Austin in their respective businesses or otherwise; nor will it cause them to be considered joint ventures or members of any joint enterprise.
- J. Enforcement. If any person, persons, corporation, or entity of any other character, violates or attempts to violate this Restrictive Covenant, it will be lawful for the City of Austin, its successors and assigns, to prosecute proceedings at law, or in equity, against the person or entity violating or attempting to violate these Restrictive Covenant and to prevent said person or entity from violating or attempting to violate such covenant. The failure at any time to enforce this Restrictive Covenant by the City of Austin, its successors and assigns, whether any violations hereof are known or not, does not constitute a waiver or estoppel of the right to do so.
- K. Modification and Amendment. This Restrictive Covenant may only be modified, amended or terminated upon the filing of a written modification, amendment or termination document in the Official Records of the county in Texas where the Property is located, executed, acknowledged, and approved by (a) the Austin Independent School District or successor; and (b) all of the Owners of the Property at the time of the modification, amendment, or termination.

Executed to be effective on April 13, 2018.

**DECLARANT:**

Austin Independent School District

By: Kendall Pace  
Kendall Pace  
President, Board of Trustees

**ACKNOWLEDGEMENT**

**STATE OF TEXAS**

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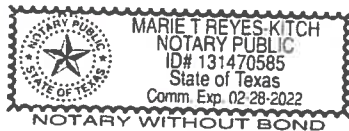
**COUNTY OF TRAVIS**

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This instrument was acknowledged before me on this the 11 day of April, 2018, by Kendall Pace, President of the Board of Trustees of the Austin Independent School District, on behalf of such school district.

[Seal]



Marie T. Reyes-Kitch  
Notary Public, State of Texas

**ACCEPTED:**

City of Austin

By: \_\_\_\_\_  
Name: Lauraine Rizer  
Title: Officer, Office of Real Estate Services

*See attached*

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Assistant City Attorney

Executed to be effective on April 13, 2018.

**DECLARANT:**

Austin Independent School District

By: \_\_\_\_\_

Kendall Pace  
President, Board of Trustees

**ACKNOWLEDGEMENT**

STATE OF TEXAS

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§  
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COUNTY OF TRAVIS

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[Seal]

\_\_\_\_\_  
Notary Public, State of Texas

**ACCEPTED:**

City of Austin

By: \_\_\_\_\_

*Lauraine Rizer*

Name: Lauraine Rizer

Title: Officer, Office of Real Estate Services

**APPROVED AS TO FORM:**

By: \_\_\_\_\_

*Katherine Hymnickas*

Assistant City Attorney

AFTER RECORDING RETURN TO:  
City of Austin  
Neighborhood Housing and Community Development  
1000 East 11th Street, Suite 200  
Austin, TX 78702  
Attn: Regina Copic/Sandra Harkins

TCAD:  
FILE NO.  
PROJECT:

## Exhibit "A"

### The Property

#### LEGAL DESCRIPTION

BEING 7.96 ACRES (346,642 SQUARE FEET) TRACT OF LAND OUT OF THE J.C. TANNEHILL SURVEY, ABSTRACT 22, SURVEY 29 IN TRAVIS COUNTY, TEXAS. SAID 7.96 ACRE TRACT, ALSO OUT OF A 9.72 ACRE TRACT OF LAND HAVING BEEN CONVEYED TO AUSTIN INDEPENDENT SCHOOL DISTRICT BY INSTRUMENT OF RECORD IN VOLUME 1864, PAGE 178 OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS. SAID 7.96 ACRE TRACT BEING SHOWN ON THE ACCOMPANYING SKETCH AND MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOW:

**BEGINNING** at a ½" iron rod found at a chain link fence on the east right of way line of Tannehill Lane. Said iron rod being at the northwest corner of the herein described tract, the southwest corner of a 10.00 acre tract conveyed to the Austin Independent School District by instrument of record in Volume 1854, Page 76 of the deed records of Travis County, TX. Said iron rod being approximately 22.6 feet south of a ½" iron pipe found at the northwest corner of the 9.72 acre tract.

**THENCE** S61°44'00"E, 644.78 feet along the fenced north line of the herein described tract and the south line of said 10.00 acre tract to a ½" iron pipe found for the northeast corner of this 7.96 acre AISD tract and the southeast corner of said 10.00 acre AISD tract. Said ½" iron pipe also being on the west line of Lot 3, Bluestein Park, Phase 2 Subdivision recorded in Volume, 86, Page 5A, Plat Records of Travis County, TX. This line is approximately 22.6 feet south of and parallel from the north line of said 9.72 acre tract.

**THENCE** S28°19'40"W, along the east line of said 7.96 acre Austin Independent School District tract and the west line of said Lot 3, at 304.65 feet and offset 0.14 feet to the left pass a found ½" iron rod at the southwest corner of said Lot 3 and the northwest corner of Lot 4 of said Bluestein Subdivision, in all a distance of 510.05 feet to a ½" iron rod set with a plastic cap stamped "MACIAS LP RPLS 4333" on the west line of said Lot 4. Said point also being at the southeast corner of the herein described tract and the northeast corner of a 0.6383 acre tract having been conveyed to the City of Austin for right of way purposes by instrument of record in Volume 7851, Page 981 in the deed records of Travis County, TX.

**THENCE** N61°40'20"W, 36.56 feet along the south line of the herein described tract and the north line of said 0.6383 acre City of Austin tract to a ½" iron rod set with a plastic cap stamped "MACIAS LP RPLS 4333" to the point of curvature of a curve to the left.

**THENCE** the following three courses with the south line of the herein described tract and the north line of said City of Austin tract:

1. With said curve to the left having a radius of 1516.58 feet, a central angle of 12°41'08", and arc length of 335.78 feet and a chord bearing of N67°42'51"W, 335.09 feet to a ½" iron rod found at the point of reverse curve to the right.
2. Along said curve to the right having a radius of 965.00 feet, a central angle of 10°51'58", and arc length of 183.01 feet and a chord bearing of N68°37'13"W, 182.74 feet to a ½" iron rod found at a point of curvature of a curve to the left.
3. Thence along said curve to the left having a radius of 835.21 feet, a central angle of 03°41'19", an arc length of 53.77 feet, and a chord bearing of N65°02'14"W, 53.76 feet to a ½" iron rod set with a plastic cap stamped "MACIAS LP RPLS 4333" for point of curvature of a curve to the right at the northeast curve return of the east right of way line of Tannehill Lane, and the north right of way line of Jackie Robinson Street

**THENCE** along said curve to the right having a radius of 47.03 feet, a central angle of 82°47'33", and arc length of 67.96 feet, a chord bearing of N12°08'23"W, 62.20 feet to a ½" iron rod set with a plastic cap marked "MACIAS LP RPLS 4333", to the point of non-tangency of said curve and on the east right of way line of Tannehill Lane, and the west line of the herein described tract of land.

**THENCE** N28°22'36"E, 522.58 feet with the east right of way line of Tannehill Lane and the west line of the herein described tract of land to the POINT OF BEGINNING and containing 7.96 acres of land.



**BEARING BASIS NOTE**

The coordinates and bearings shown hereon are based on the Texas Coordinate System (Central Zone-4203 NAD83).

THE STATE OF TEXAS    §  
                                  §       KNOW ALL MEN BY THESE PRESENTS:  
COUNTY OF TRAVIS    §

That I, Carmelo L. Macias, a Registered Professional Land Surveyor, do hereby state that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, this 21th day of June, 2016, A.D.



Macias & Associates, L.P.  
5410 South 1<sup>st</sup> Street  
Austin, Texas 78745  
512-442-7875

*Carmelo L. Macias*  
Carmelo L. Macias  
Registered Professional Land Surveyor  
No. 4333 – State of Texas  
Revision 1 - January 25, 2018

**REFERENCES**

TCAD PARCEL ID NO. 02-0923-0468  
MACIAS & ASSOCIATES, L.P., PROJECT NO. 276-23-16

FIELD NOTES REVIEWED  
BY *[Signature]* DATE: *02-06-2018*  
CITY OF AUSTIN  
PUBLIC WORKS DEPARTMENT

11-GF# *201601185* ALF  
RETURN TO: HERITAGE TITLE  
401 CONGRESS AVE., STE. 1500  
AUSTIN, TEXAS 78701

**BEARING BASIS NOTE**

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THE STATE OF TEXAS §  
§  
COUNTY OF TRAVIS §

KNOW ALL MEN BY THESE PRESENTS:

That I, Carmelo L. Macias, a Registered Professional Land Surveyor, do hereby state that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas, this 21th day of June, 2016, A.D.



Macias & Associates, L.P.  
5410 South 1<sup>st</sup> Street  
Austin, Texas 78745  
512-442-7875

*Carmelo L. Macias*  
Carmelo L. Macias  
Registered Professional Land Surveyor  
No. 4333 - State of Texas  
Revision 1 - January 25, 2018

**REFERENCES**

TCAD PARCEL ID NO. 02-0923-0468  
MACIAS & ASSOCIATES, L.P., PROJECT NO. 276-23-16

FIELD NOTES REVIEWED  
BY *[Signature]* DATE: *02.06.2018*  
CITY OF AUSTIN  
PUBLIC WORKS DEPARTMENT

11-GF# 201601185 ALF  
RETURN TO: HERITAGE TITLE  
401 CONGRESS AVE., STE. 1500  
AUSTIN, TEXAS 78701

HOU:3878006.2



FILED AND RECORDED  
OFFICIAL PUBLIC RECORDS

*[Signature]*  
DANA DEBEAUVOIR, COUNTY CLERK  
TRAVIS COUNTY, TEXAS

April 13 2018 12:24 PM

FEE: \$ 58.00 2018055931